



**BILLING CODE: 4410-09-P**

**DEPARTMENT OF JUSTICE  
Drug Enforcement Administration**

**Christopher D. Owens, M.D.  
Decision and Order**

On August 11, 2017, the Acting Assistant Administrator, Diversion Control Division, Drug Enforcement Administration, issued an Order to Show Cause to Christopher D. Owens, M.D. (hereinafter, Registrant), of San Francisco, California. GX 2. The Show Cause Order proposed the revocation of Registrant's DEA Certificate of Registration, and the denial of any applications to renew or modify his registration, or for any other registration, on the ground that Registrant does not "have . . . state authority to handle controlled substances." *Id.* at 1.

As to the jurisdictional basis for the proceeding, the Show Cause Order alleged that Registrant is registered "as a practitioner in [s]chedules II through V under . . . Certificate of Registration [No.] FO0414677," at the address of "University of California, San Francisco, 400 Parnassus Ave[.], #581, San Francisco, CA." *Id.* at 2. The Order alleged that this "registration expires by its terms on December 31, 2018." *Id.*

As to the substantive ground for the proceeding, the Show Cause Order alleged that "[o]n June 22, 2017, the Medical Board of California issued a Default Decision and Order revoking [Registrant's] Physician's and Surgeon's Certificate No. A108740, effective July 21, 2017," and that "[o]n July 20, 2017, the . . . Board . . . issued an Order denying [his] petition for reconsideration." *Id.* The Show Cause Order thus alleged that Registrant is "currently without authority to practice medicine or handle controlled substances in the State of California, the [S]tate in which [he is] registered with the" Agency. *Id.* The Order further asserted that "based

on [his] lack of authority to handle controlled substances in . . . California,” his registration is subject to revocation. *Id.* (citing 21 U.S.C. § 824(a)(3); other citations omitted).

The Show Cause Order notified Registrant of his right to request a hearing on the allegations or to submit a written statement of position while waiving his right to a hearing, the procedure for electing either option, and the consequence of failing to elect either option. *Id.* at 2. The Show Cause Order also notified Registrant of his right to submit a Corrective Action Plan pursuant to 21 U.S.C. § 824(c)(2)(C). *Id.* at 3.

On August 14, 2017, the Show Cause Order was served on Registrant by providing it to an Assistant Federal Public Defender who was representing Registrant in a pending criminal matter and who stated that she was authorized by Registrant to accept service of the Show Cause Order on his behalf. GX 6. The Attorney also stated that she would provide a copy of the Order to Registrant and subsequently confirmed that she did. *Id.* at 1-2.

On November 28, 2017, the Government filed a Request for Final Agency Action (RFAA). Therein, the Government represents that “[a]t least 30 days have passed since” the Show Cause Order “was served on Registrant.” RFAA, at 2. The Government further represents that “Registrant has not requested a hearing and has not otherwise corresponded or communicated with DEA regarding the Order . . . including the filing of any written statement in lieu of a hearing.” *Id.*

Based on the Government’s representations, I find that 30 days have now passed and Registrant has neither requested a hearing nor filed a written statement while waiving his right to a hearing. I also find that Registrant has not submitted a Corrective Action Plan. Accordingly, I find that Registrant has waived his right to a hearing or to submit a written statement while

waiving his right to a hearing; I also find that Registrant has waived his right to submit a Corrective Action Plan. 21 CFR 1301.43(d). I make the following findings of fact.

## **FINDINGS**

Registrant is the holder of DEA Certificate of Registration No. FO0414677, pursuant to which he is authorized to dispense controlled substances in schedules II through V, as a practitioner, at the registered address of University of California, San Francisco, 400 Parnassus Ave., #581, San Francisco, CA. GX 1, at 1. This Registration does not expire until December 31, 2018. *Id.*

Registrant was also the holder of Physician's and Surgeon's certificate No. A108740 issued by the Medical Board of California (hereinafter, MBC or Board). GX 3, at 1. However, on April 25, 2017, a state Administrative Law Judge conducted a hearing at which the ALJ concluded that Registrant "is unsafe to practice medicine and issued an Interim Suspension Order." *Id.* at 2. The State ALJ also ordered the Board to file an Accusation against Registrant within 30 days of April 26, 2017. *Id.* On May 16, 2017, the MBC's Executive Director filed an Accusation against Registrant, which alleged that "he self-administered illicit drugs and has been diagnosed with a substance abuse disorder." *Id.* at 2, 5. After Registrant failed to respond to the Accusation within the period provided under California law, the Board found Registrant in default and ordered that his medical license be revoked effective on July 21, 2017. *Id.* at 4-5. While Registrant filed a petition for reconsideration, on July 20, 2017, the Board denied the petition. GX 4. I take official notice of the results of a search of the Board's license verification webpage. *See* 5 U.S.C. § 556(e). That search shows that, as of the date of this Decision, Registrant's Physician's and Surgeon's License remains revoked. *See* <https://search.dca.ca.gov/results>.

## DISCUSSION

Pursuant to 21 U.S.C. § 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under section 823 of the Controlled Substances Act (CSA), “upon a finding that the registrant . . . has had his State license . . . suspended [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances.” With respect to a practitioner, DEA has long held that the possession of authority to dispense controlled substances under the laws of the State in which a practitioner engages in professional practice is a fundamental condition for obtaining *and maintaining* a practitioner’s registration. *See, e.g., James L. Hooper*, 76 FR 71371 (2011), *pet. for rev. denied*, 481 Fed. Appx. 826 (4th Cir. 2012); *Frederick Marsh Blanton*, 43 FR 27616 (1978).

The Agency’s rule derives from the text of two other provisions of the CSA: section 802(21), which defines the term “practitioner,” and section 823(f), which sets forth the registration requirements applicable to practitioners. Notably, in section 802(21), Congress defined “the term ‘practitioner’ [to] mean[ ] a . . . physician . . . or other person licensed, registered or otherwise permitted, by . . . the jurisdiction in which he practices . . . to distribute, dispense, [or] administer . . . a controlled substance in the course of professional practice.” 21 U.S.C. § 802(21). The text of this provision makes clear that a physician is not a practitioner within the meaning of the CSA if he is not “licensed, registered or otherwise permitted, by the jurisdiction in which he practices . . . to dispense [or] administer . . . a controlled substance in the course of professional practice.” *Id.*

To the same effect, Congress, in setting the requirements for obtaining a practitioner’s registration, directed that “[t]he Attorney General shall register practitioners . . . if the applicant

is authorized to dispense . . . controlled substances under the laws of the State in which he practices.” 21 U.S.C. § 823(f). Thus, based on these provisions, the Agency held nearly forty years ago that “[s]tate authorization to dispense or otherwise handle controlled substances is a prerequisite to the issuance *and maintenance* of a Federal controlled substances registration.” *Blanton*, 43 FR at 27617 (revoking physician’s registration based on one-year suspension of his state license) (emphasis added).

Based on my finding that Registrant’s Physician’s and Surgeon’s Certificate has been revoked, I find that Registrant is currently without authority to dispense controlled substances under the laws of California, the State in which he is registered. *See* Cal. Health & Safety Code § 11150 (“No person other than a physician, dentist, podiatrist, or veterinarian . . . shall write or issue a prescription” for a controlled substance.); *id.* § 11210 (“A physician, surgeon, dentist, [or] veterinarian . . . may prescribe for, furnish to, or administer controlled substances to his or her patient when the patient is suffering from a disease, ailment, injury . . . .”); *id.* § 11024 (“‘Physician,’ ‘dentist,’ ‘podiatrist,’ . . . means persons who are licensed to practice their respective professions in this state.”); *id.* § 11352.1(b) (“any person who knowingly and unlawfully dispenses or furnishes a dangerous drug . . . without a license to dispense or furnish these products, shall be guilty of a misdemeanor”).<sup>1</sup> I will therefore order that his registration be revoked and that any pending application to renew or modify his registration, or for any other registration in California, be denied.

## **ORDER**

Pursuant to the authority vested in me by 21 U.S.C. § 824(a) and 28 CFR 0.100(b), I

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<sup>1</sup> *See also* Cal. Bus. & Prof. Code § 2052 (“any person . . . who diagnoses, treats, operates for or prescribes for any ailment, . . . disease, . . . disorder, injury, or other physical or mental condition of any person, without having at the time of so doing a valid, unrevoked, or unsuspended certificate as provided in this chapter . . . is guilty of a public offense”); *id.* § 2051 (“The physician’s and surgeon’s certificate authorizes the holder to use drugs or devices in or upon human beings . . . in the treatment of diseases, injuries, deformities, and other physical and mental conditions).

order that DEA Certificate of Registration No.FO0414677 issued to Christopher D. Owens, M.D., be, and it hereby is, revoked. Pursuant to the authority vested in me by 21 U.S.C. § 823(f), I order that any pending application to renew or modify this registration, or for any other registration in the State of California, be, and it hereby is, denied. This Order is effective immediately.<sup>2</sup>

Dated: March 14, 2018.

Robert W. Patterson,  
Acting Administrator.

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<sup>2</sup> For the same reasons which led the MBC to issue the Interim Suspension Order, I find that the public interest necessitates that this Order be effective immediately. 21 CFR 1316.67.

